IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO. 535 OF 2007

IN

FIRST APPEALNO. 1479 OF 2006

SANJAY KONDIBA RASKAR ...APPLICANT.

...[ORIG.RESPDT.NO.1]

VS.

KRISHI UTPANNA BAJAR SAMITI,

AKLUJ AND ORS. ... RESPONDENTS.

NITIN JAMDAR FOR THE APPLICANT.

G.S.GODBOLE FOR RESPONDENT NO.1.

A.G.P. FOR RESPONDENT NO. 2 & 3.

CORAM : J.N.PATEL & AMJAD A. SAYED, JJ.

DATE : June 13, 2007.

P.C.

1. The respondents have deposited the decreetal amount in Reference Court, over which there is a dispute as to the quantum. It is fairly conceded by the learned Counsel for the Appellant that this will have to be taken up for consideration at the final hearing and for the present he is not pressing the relief sought in terms of prayer clause (b) and (c).

2. In so far as the application for withdrawal of the amount of Rs. 53,60,145/- (Rupees fifty-three lac

sixty thousand one forty-five only) deposited by the Respondents in Reference Court is concerned, the applicant-claimant, it is submitted that at present applicant is not in a position to furnish sufficient surety. Therefore, taking into consideration the fact that the applicant has lost his land, a part of the amount deposited by the respondents, in Reference Court can be permitted to be withdrawn by the applicant. Therefore, we permit the applicant to withdraw a sum of Rs. 15,00,000/- (Fifteen lac only) out of the total amount deposited in the Reference Court, on furnishing surety to the satisfaction of the Reference Court.

3. The balance amount is directed to be invested with the Nationalised Bank, initially in a Term Deposit for three years, to be renewed from time to time, in future. In case, the amount has already been invested by the Reference Court as per their usual practice, then out of the amount so invested a sum of Rs. 15,00,000/- (Rupees fifteen lac only) can be paid to the applicant, as aforesaid, on furnishing the surety to the satisfaction of the Reference Court.

4. The application stands disposed of in above terms.

5. This Court in the Appeals preferred by the

Respondent Claimants, has already directed that the present Appeal be heard alongwith the appeals preferred by the Respondent-claimants. Hence, First Appeal Nos. 1481 of 2006 and First Appeal No. 1480 of 2006 be listed together with this appeal for hearing.

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[Amjad A.Sayed, J] [J.N.Patel, J.]